

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DEMMA ROY BREEDING,  
Plaintiff,

No. 1:07-cv-971

-v-

HONORABLE PAUL L. MALONEY

NANCY LANGE, ET AL.,  
Defendants.

ORDER DENYING MOTION FOR RECONSIDERATION

This matter comes before the Court on Plaintiff Breeding's motion (Dkt. No. 115) for reconsideration. Plaintiff seeks reconsideration of an order granting Defendants Lange, Winchester, Armstrong, Parkhurst, Schorfhaar, and the Michigan Department of Corrections (MDOC) motion for summary judgment.

Under the Local Rule of Civil Procedure for the Western District of Michigan, a court may grant a motion for reconsideration when the moving party demonstrates both a "palpable defect" by which the Court and parties have been misled and a showing that a different disposition of the case must result from the correction of the mistake. W.D. MICH. L. R. CIV. P. 7.4(a). A motion for reconsideration will be denied where the issues raised by the moving party have already been raised and ruled upon by the court, either expressly or by reasonable implication. *Estate of Graham v. County of Washtenaw*, 358 F.3d 377, 385 (6th Cir. 2004).

Plaintiff asserts Defendants are not entitled to summary judgment because the motion was not timely filed. Plaintiff earlier filed a motion to stay (Dkt. No. 64) summary judgment proceedings and a motion for default judgment (Dkt. No. 65) raising the same issue. The motions were denied by the magistrate judge. (Dkt. No. 70.) Plaintiff filed a motion for reconsideration of the magistrate

judge's ruling (Dkt. No. 73), which the magistrate judge denied (Dkt. No. 76).

Plaintiff has not established any palpable defect by which this Court and the parties have been misled. The magistrate judge correctly outlined the relevant law and considered the appropriate facts in denying Plaintiff's motion for stay and motion for default. (*See* Dkt. Nos. 70 and 76.) The magistrate judge's denial of Plaintiff's motions was neither clearly erroneous nor contrary to law. The magistrate judge's decision to grant Defendant's second motion for an extension of time was not clearly erroneous, not contrary to law, and was not an abuse of discretion. Defendants demonstrated good cause for the one day delay in the filing of the motion.

Therefore, Plaintiff's motion for reconsideration (Dkt. No. 115) is **DENIED. IT IS SO ORDERED.**

Date: September 22, 2009

/s/ Paul L. Maloney  
Paul L. Maloney  
Chief United States District Judge